



(XO). You acknowledged that, after signing page 13 in boot camp, you were aware of the consequences and punishment if you were to test positive. During your time at “A” School you were tested weekly and they all came back negative. You asserted that you were innocent, and while at a social gathering someone had to put something in your drink. On 15 December 1988, the ADB found that you committed misconduct due to drug abuse and recommended you be discharged with an Other than Honorable (OTH) characterization. Your CO forwarded your case to the separation authority, however, later amended his recommendation to include a 12-month suspension of your separation. On 4 February 1989, the separation authority directed your separation with an OTH but ordered it held in abeyance for 12 months pending further observation of your conduct. Subsequently, you were counseled that your separation was suspended but warned you regarding the consequences of further misconduct. However, your record shows that you received NJP on 26 October 1989 for being absent without authority on two occasions and, on 30 January 1990, for an undisclosed offense. As a result, on 1 February 1990, your previously suspended separation was vacated and you were discharged for misconduct due to drug abuse with an OTH.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge character of service and contentions that it would help in removing some of the shame of your past, that you asked for assistance in dealing with your grandmother’s death and was denied, and that you struggle daily with depression, post-traumatic stress disorder (PTSD), Bi-Polar disorder, and anxiety. For purposes of clemency consideration, the Board noted you did not provide supporting documentation describing post-service accomplishments or advocacy letters.

As part of the Board’s review, a qualified mental health professional reviewed your request and provided the Board with an AO on 5 July 2022. The AO stated in pertinent part:

There is no evidence that the Petitioner was diagnosed with a mental health condition during military service, although there is evidence of behavior consistent with alcohol and substance use disorder prior to and during military service. Substance use and problematic alcohol use are incompatible with military readiness and discipline, and there is no evidence he was unaware of his misconduct or not responsible for his behavior, particularly given his in-service denial of substance use. Throughout his disciplinary processing, there were no concerns raised of another mental health condition that would have warranted a referral for evaluation. He has provided no medical evidence in support of his claims. Unfortunately, his personal statement is not sufficiently detailed to establish clinical symptoms or provide a nexus with his misconduct. Additional records (e.g., post-service mental health records describing the Petitioner’s diagnosis, symptoms, and their specific link to his misconduct) would aid in rendering an alternate opinion.

The AO concluded, “it is my considered clinical opinion there is insufficient evidence of a diagnosis of PTSD or another mental health condition that may be attributed to military service.

There is insufficient evidence his misconduct could be attributed to PTSD or another mental health condition.”

Based upon this review, the Board concluded that your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined your misconduct as evidenced by your four NJPs, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and the fact it included a drug offense. The Board determined that illegal drug use by a Sailor is contrary to Navy core values and policy, renders such Sailors unfit for duty, and poses an unnecessary risk to the safety of their fellow Sailors. Further, the Board considered that you were provided multiple warnings and opportunities to correct your conduct issues by your chain of command. In particular, the Board noted the aggravating nature of your two NJPs after your initial separation was suspended to allow you an opportunity to overcome your issues. Contrary to your assertion, the Board determined that you were given great assistance and clemency by your command despite your record of misconduct. Additionally, the Board concurred with the AO and determined that there is insufficient evidence of a diagnosis of PTSD that may be attributed to military service, and there is insufficient evidence your misconduct could be attributed to PTSD. The Board noted the nature of your misconduct and concluded, even if there was evidence of PTSD, there was absolutely no nexus between PTSD and your misconduct of wrongful use of cocaine. Finally, absent a material error or injustice, the Board declined to summarily upgrade a discharge solely for the purpose of facilitating veterans’ benefits, or enhancing educational or employment opportunities. As a result, the Board determined your conduct constituted a significant departure from that expected of a Sailor and continues to warrant an OTH. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants upgrading your characterization of service or granting clemency in the form of an upgraded characterization of service. Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

10/24/2022

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Executive Director

Signed by: █